

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CAROLYN NEIDIGH, Executrix of : **CIVIL ACTION NO. 1:06-CV-0242**
the Estate of David D. Lauver, :

Plaintiff : **(Judge Conner)**

v.

MERIT LIFE INSURANCE :
COMPANY, :

Defendant :

ORDER

AND NOW, this 13th day of March, 2006, upon consideration of defendant's motion to compel arbitration (Doc. 9) under the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1-16, requesting dismissal of the above-captioned case or, in the alternative, a stay pending arbitration, and it appearing that plaintiff has not filed a brief in opposition as of the date of this order,¹ see L.R. 7.6 ("Any party opposing any motion shall file a responsive brief [or] shall be deemed not to oppose such motion."), that the arbitration agreement itself is not at issue (see Doc. 1, Ex. A), see 9 U.S.C. §§ 2-4; Prima Paint Corp. v. Flood & Conklin Mfg. Co., 388 U.S. 395, 403-04 (1967), and that all of plaintiff's claims are covered by the arbitration agreement (see Doc. 1, Ex. A; Doc. 8, Ex. A at 7-8; Doc. 8, Ex. B at 7-8), see In re Prudential Ins. Co. of Am. Sales Practice Litig., 133 F.3d 225, 231 (3d Cir. 1998) ("[W]hen it cannot be said 'with positive assurance' that the parties have clearly and unequivocally

¹ The order of court dated February 27, 2006 (Doc. 12) directed plaintiff to file a brief in opposition on or before March 10, 2006.

excepted a certain dispute from arbitration, the court must compel arbitration.”); see also Dancu v. Coopers & Lybrand, 778 F. Supp. 832, 835 (E.D. Pa. 1991) (holding that, where all claims are subject to arbitration under the FAA, “the appropriate procedure is dismissal of the action without prejudice”), it is hereby ORDERED that:

1. The motion to compel arbitration (Doc. 9) is GRANTED. See 9 U.S.C. §§ 1-16; In re Prudential Ins. Co. of Am. Sales Practice Litig., 133 F.3d 225, 231 (3d Cir. 1998); see also L.R. 7.6.
2. The above-captioned action is DISMISSED without prejudice. See Dancu v. Coopers & Lybrand, 778 F. Supp. 832, 835 (E.D. Pa. 1991).
3. The Clerk of Court is directed to CLOSE this case.

/s/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge